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| APPLICATION NO.                | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------|-------------|----------------------|---------------------|------------------|
| 10/757,724                     | 01/15/2004  | Paul H. Morrill      | 05525/00003/US1     | 4582             |
| 7590 10/27/2010                |             |                      |                     |                  |
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| EXAMINER                       |             |                      |                     |                  |
| PATEL, JAGDISH                 |             |                      |                     |                  |
| ART UNIT                       |             | PAPER NUMBER         |                     |                  |
| 3693                           |             |                      |                     |                  |
| MAIL DATE                      |             | DELIVERY MODE        |                     |                  |
| 10/27/2010                     |             | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/757,724

**Applicant(s)**

MORRILL, PAUL H.

**Examiner**

JAGDISH N. PATEL

**Art Unit**

3693

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 164-199, 201-213, 216-219 and 221 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 164-199, 201-213, 216-219 and 221 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to amendment filed 9/13/10.

#### **Response to Amendment**

2. Claims 164-199, 201-213, 216-219 and 221 are currently pending.
3. The amendment does not fully comply with the following requirement. Accordingly this action is issued as a FINAL rejection. The following section addresses deficiencies still not corrected via the amendment. This new final action is issued to outline the deficiencies and required corrective actions.

#### **Deficiencies noted in Amendment/Declaration**

- (i) amendment submission filed 9/13/10 fails to comply with 37 CFR 1.173 (c ), which requires that each amendment submitted must set forth the status of all pertinent claims and all added claims as of the date of the submission. The status of patent claims 1-163 have not been set forth. (Suggestion: Cancelled claims 1-163 should be listed as "Cancelled")  
(MPEP section 1453.II-V referring to 37 CFR 1.173 (b) and (c)).
- (ii) A supplemental Reissue Declaration has not been submitted. The Declaration must identify at least one 35 USC 251 error being relied upon as a basis for reissue. **An example of a proper error is:** "The error is that I claimed less than I had a right to claim. Specifically, it was an error to include the limitation "A" in claim "X", as it is not needed for patentability."

(iii) When new claims are added difference between the new claims and the patent claims need to be pointed out as stated in the reissue declaration. This mapping of differences is not the same as the error statement.

4. In accordance with 37 CFR 1.175(b) (1), a supplemental reissue oath/declaration under 37 CFR 1.175(b) (1) must be received before this reissue application can be allowed.

5. Claims 164-199, 201-213, 216-219 and 221 are rejected as being based upon a defective reissue Declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b) (1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

See MPEP § 1414.01.

The amendment provides statement of Support for the amended claims in the specification in cursory and general statement (e.g. "For example, support may be found at least at col. 2, line 22 - col. 3, line 36. Support for the amendments to claims 170-174 and 201 - 205 may be found at least at col. 3, line 66 - col. 6, line 13.). A detailed outline of the all amended claims with respective claim limitations and respective portion of the specification supporting the claimed limitation must also be provided. Absence of such statement, the amendment is deemed non-compliant under 37 CFR 1.173(c) which requires that each amendatory change must be accompanied by an explanation of the support in the disclosure of the patent for the change (along with any additional comment) on the pages separate from the pages containing the amendment.

(Mapping of differences between the patented claims and the added new (now amended) claims may provide separately as Remarks).

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on **800AM-630PM Mon-Tue and Thu.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/JAGDISH N PATEL/  
Primary Examiner, Art Unit 3693